



that the Department of Finance approved BCSR's 1991-92 budget change proposal, which augments several of the Board's line items and took effect on January 1.

At the Board's December 14 meeting, Rick Black reported that he had attended a meeting of the clerks of the courts of appeal and the California Supreme Court to discuss the process by which Board staff write letters to CSRs who receive delinquent notices or orders to show cause from the courts; the clerks assured Black that this process is worthwhile, as it greatly reduces the number of delinquent transcripts.

#### FUTURE MEETINGS:

May 7 in San Francisco.  
June 13 in southern California.  
August 15 in Santa Clara.

#### STRUCTURAL PEST CONTROL BOARD

Registrar: Mary Lynn Ferreira  
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The Structural Pest Control Board (SPCB) is a seven-member board functioning within the Department of Consumer Affairs. The SPCB is comprised of four public and three industry representatives. SPCB's enabling statute is Business and Professions Code section 8500 *et seq.*; its regulations are codified in Division 19, Title 16 of the California Code of Regulations (CCR).

SPCB licenses structural pest control operators and their field representatives. Field representatives are allowed to work only for licensed operators and are limited to soliciting business for that operator. Each structural pest control firm is required to have at least one licensed operator, regardless of the number of branches the firm operates. A licensed field representative may also hold an operator's license.

Licenses are classified as: (1) Branch 1, Fumigation, the control of household and wood-destroying pests by fumigants (tenting); (2) Branch 2, General Pest, the control of general pests without fumigants; (3) Branch 3, Termite, the control of wood-destroying organisms with insecticides, but not with the use of fumigants, and including authority to perform structural repairs and corrections; and (4) Branch 4, Roof Restoration, the application of wood preservatives to roofs by roof restorers. Branch 4 was enacted by AB 1682 (Sher) (Chapter 1401, Statutes of 1989), and became effective on July 1, 1990. An operator may be licensed in all four

branches, but will usually specialize in one branch and subcontract out to other firms.

SPCB also issues applicator certificates. These otherwise unlicensed individuals, employed by licensees, are required to take a written exam on pesticide equipment, formulation, application, and label directions if they apply pesticides. Such certificates are not transferable from one company to another.

SPCB is comprised of four public and three industry members. Industry members are required to be licensed pest control operators and to have practiced in the field at least five years preceding their appointment. Public members may not be licensed operators. All Board members are appointed for four-year terms. The Governor appoints the three industry representatives and two of the public members. The Senate Rules Committee and the Speaker of the Assembly each appoint one of the remaining two public members.

#### MAJOR PROJECTS:

**Board Considers Regulatory Changes.** At its December 3 meeting, the Board conducted a public hearing on the proposed adoption of new sections 1990(c), 1973, and 1996.2, Division 19, Title 16 of the CCR.

Proposed new section 1990(c), extensively discussed at SPCB's September 5 meeting, again met with public criticism. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 112 for background information.) Proposed section 1990(c) would provide that "[a]ny wood structure that touches or connects to the structure being inspected must be inspected or stated as not inspected in a 'limited report.' This includes, but is not limited to, decks, steps, patio covers, trellises, sheds and workshops. If these structures do not touch or connect to the structure being inspected, they may be excluded from the scope of the inspection. If fences and trellises are separated from the main structure by stucco, metal flashing, or other non-wood barriers, they may be excluded from the scope of the inspection." Public comments focused on the "volunteer" nature of inspections of wood structures that are separated from the main structure, which "may" be excluded from inspection; the unclear meaning of the phrase "touch or connect" and its interpretation by building inspectors; and the pejorative meaning of "limited report" and its probable impact on lenders. The Board voted to revise the proposed new subsection; a subcommittee was scheduled to address this issue in Irvine on February 20.

Proposed new section 1973 would require a SPCB licensee, following a fumigation, to release property for occupancy "by either personally returning the key(s) of the structure being fumigated to the owner/occupant/agent of the property or by posting a Notice of Re-Entry." The format of the required notice was also included as part of the Board's regulatory proposal. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 112 for background information.) During its December 3 meeting, the Board voted to eliminate the option of returning the keys to the property owner/occupant/agent. The Board was expected to renounce the revised section and conduct another public hearing on February 21.

Proposed new section 1996.2 would revise SPCB's "Standard Notice of Work Completed and Not Completed" form and require the use of the form, which has long been in use by the pest control industry. On December 3, the Board unanimously approved proposed section 1996.2, subject to minor modifications. Staff released the modified text for a fifteen-day public comment period. At this writing, staff is preparing the rulemaking package for submittal to the Office of Administrative Law (OAL).

**Board Continues to Define the Branch 4 Classification.** On January 21, SPCB's Branch 4 Committee was scheduled to meet in San Francisco to continue defining and clarifying the Branch 4 (Roof Restoration) classification of pest control, which became effective on July 1, 1990. The Committee was slated to discuss various topics, including licensing requirements, continuing education requirements, consumer relations, and inspection report forms.

To enable the Branch 4 Committee to consider all relevant issues in toto, the Board removed discussion of its proposed amendments to regulatory sections 1950 and 1996 from the public hearing portion of its December 3 agenda. The Board's proposed amendments to section 1950 would require operators licensed in all four branches of pest control to obtain 48 continuing education (CE) hours during each three-year renewal period. Proposed amendments to section 1996 would revise SPCB's "Wood Destroying Pests and Organisms Inspection Report" form to inform consumers of SPCB's existence and update the Board's mailing address on the inspection report form. (See CRLR Vol. 11, No. 4 (Fall 1991) pp. 112-13 for background information.) Based on its findings, the Com-



mittee will recommend regulatory revisions.

**Board Considers Action to Recapture Research Funds.** During SPCB's December meeting, staff reported that Governor Wilson will soon appropriate \$244,000 (approximately two-thirds) of the Structural Pest Control Research Fund to help alleviate the state's financial deficit. Board members and staff expressed outrage at what they alleged is an unlawful conversion of funds that are not part of the state's general fund. Although section 14.00 of the 1991-92 Budget Act authorizes the transfer to the state's general fund of "excess fees" from many special agency funds, including the Structural Pest Control Fund, Board members opined that no part of its Research Fund constitutes "excess fees." The Research Fund was established pursuant to SB 850 (Chapter 1267, Statutes of 1987) for structural pest control research projects to be selected by a five-member Research Advisory Panel; funds deposited into the Research Fund are generated by a \$2 assessment on each pesticide use stamp purchased from the SPCB.

In response to the Board's request for public comments, members of Pest Control Operators of California (PCOC), the pest control industry's trade association, stated that PCOC is considering legal action to recapture the funds; Board members expressed a desire to join in any PCOC lawsuit. The Board voted unanimously to submit a formal request to the Attorney General for an opinion by February 21 as to the state's authority to appropriate Research Fund money.

**Filing Fee Increases.** At its December 3 meeting, the Board agreed to publish notice of its intent to amend sections 1948 and 1997, Title 16 of the CCR. The proposed revision to section 1948 would increase the fee for a Pesticide Use Report filing from \$6 to \$7. The proposed revision to section 1997 would increase the fee for Inspection Report filings and Notice of Work Completed filings from \$1 to \$2. The Board was scheduled to hold a public hearing on these proposals on February 21.

**Update on Other Proposed Regulatory Changes.** The following is a status update on other rulemaking packages reported in detail in previous issues of the *Reporter*:

-Registered Companies. At this writing, SPCB staff is assembling the rulemaking file for submission to OAL regarding the Board's proposed amendments to sections 1911, 1913, 1936, and 1937.16, Title 16 of the CCR. Revisions to section 1911 would delete the

requirement that a registered company notify the Board of a change of address within ten days. Revisions to section 1913 would replace the phrase "operator's license" with "company registration certificate." Section 1936 would be amended to include SPCB's license application forms within the regulation. The proposed amendment to section 1937.16 would subject Branch 4 registered companies to the provision which requires Branch 1 and Branch 3 registered companies to use a "Notice to Owner" form, as specified by the Board. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 112 and Vol. 11, No. 3 (Summer 1991) p. 108 for background information.)

-Reinstatement of License Renewal Fees. At its September meeting, SPCB modified its proposed amendments to section 1948, which would reinstate license renewal fees to maintain the Board's reserve fund and clarify that the certified applicator examination fee is required for each branch in which an examination is taken. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 112 for background information.) No comments were received during the additional fifteen-day comment period which commenced September 30; at this writing, staff is assembling the rulemaking file for submission to OAL.

-Use of the Term "Fungicide." Following a September hearing, SPCB also modified its proposed amendments to sections 1970.4 and 1983, which would add the term "fungicide" to numerous provisions which currently relate to the use of pesticides. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 112 for background information.) No comments were received during the additional fifteen-day comment period which commenced September 30; at this writing, staff is assembling the rulemaking file for submission to OAL.

-Inspection Report Format and Content Requirements. SPCB's proposed new section 1990.1 would establish inspection report format and content requirements under Business and Professions Code sections 8516.1(b) and 8516.1(c)(1)-(8); at this writing, staff is assembling the rulemaking file for submission to OAL. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 112 for background information.)

-Building Standards Regulations. On November 15, OAL approved SPCB's proposed adoption by reference of subsections 2516(c)(1), (2), (4), (6), and (6.1), Title 24 of the CCR, into section 1991 of its own regulations in Title 16 of the CCR. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 113 and Vol. 11, No. 2

(Spring 1991) pp. 105-06 for background information.)

## LEGISLATION:

**Future Legislation.** During the second year of the current two-year legislative session, SPCB plans to pursue the following proposals:

-On December 3, the Board agreed to seek amendments to Business and Professions Code sections 8569 and 8570 to allow a field representative to be a partner or officer of a registered company. According to the Board, the present statutes are inconsistent with actual practice, since a field representative may do everything but be an officer in a registered company. Moreover, SPCB's licensing procedures have permitted the issuance of registration certificates with a field representative as a partner or officer. By amending sections 8569 and 8570, the Board hopes to align statutes, licensing procedures, and actual practice.

-On December 3, the Board also agreed to seek amendments to Business and Professions Code section 8519(a), to clarify whether an operator must inspect inaccessible areas before issuing a certificate of inspection. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 114 for background information.)

## RECENT MEETINGS:

During SPCB's December 3 meeting in Sacramento, Department of Consumer Affairs (DCA) Director Jim Conran addressed the Board to emphasize DCA's commitment to consumer protection. Several Board members disagreed with Mr. Conran's philosophy that continuing education (CE) requirements should be technically related and necessary to the licensed activity; current pest control CE requirements include credit for nontechnical courses such as business management.

Also on December 3, staff reported that the Department of General Services (DGS) disapproved the Research Advisory Panel's proposed grants to the University of California at Berkeley to study the efficacy of nonchemical controls for drywood termites, and to Bolsa Research Associates to evaluate the efficacy of chloropicrin as a warning agent to prevent unauthorized entry during structural fumigation. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 113 for background information.) Staff added that revised contracts would be submitted to DGS.

Also at its December 3 meeting, the Board voted unanimously to rescind Specific Notice III-1-91 and to reinstate Specific Notice III-5-83, regarding roof inspections. Specific Notice



## REGULATORY AGENCY ACTION

III-1-91 set forth verbatim the language of Specific Notice III-5-83, but also included an "Inspection Policy" directing Branch 3 licensees to either inspect roof coverings believed to be infected by wood-destroying organisms or nondecay fungi or state that the roof covering was not inspected and recommend inspection by a Branch 4 registered company. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 108-09 for background information.)

### FUTURE MEETINGS:

May 5 in Sacramento.  
August 7 in San Diego.

### TAX PREPARER PROGRAM

*Administrator: Jacqueline Bradford*  
(916) 324-4977

Enacted in 1973, abolished in 1982, and reenacted by SB 1453 (Presley) effective January 31, 1983, the Tax Preparer Program registers approximately 19,000 commercial tax preparers and 6,000 tax interviewers in California, pursuant to Business and Professions Code section 9891 *et seq.* The Program's regulations are codified in Division 32, Title 16 of the California Code of Regulations (CCR).

Registrants must be at least eighteen years old, have a high school diploma or pass an equivalency exam, have completed sixty hours of instruction in basic personal income tax law, theory, and practice within the previous eighteen months, or have at least two years' experience equivalent to that instruction. Twenty hours of continuing education are required each year.

Prior to registration, tax preparers must deposit a bond or cash in the amount of \$2,000 with the Department of Consumer Affairs. Registration must be renewed annually, and a tax preparer who does not renew his/her registration within three years after expiration must obtain a new registration. The initial registration fee is \$50 and the renewal fee is \$40.

Members of the State Bar of California, accountants regulated by the state or federal government, and those authorized to practice before the Internal Revenue Service are exempt from registration.

An Administrator, appointed by the Governor and confirmed by the Senate, enforces the provisions of the Tax Preparer Act. Under the Act, the Administrator is supposed to be assisted by a nine-member State Tax Preparer Advisory Committee which consists of three registrants, three persons exempt

from registration, and three public members. All members are appointed to four-year terms. However, the last committee members' terms expired on December 31, 1988; no members were appointed to replace them. The Department of Consumer Affairs recently announced the dissolution of several advisory committees in response to budgetary concerns; however, the State Tax Preparer Advisory Committee is not among them. Because the Committee currently exists in statute only, it costs the state no money. Many believe that it would cost the state more to dissolve the Committee than to maintain the status quo.

### RECENT MEETINGS:

The Advisory Committee has not met since December 13, 1988.

### FUTURE MEETINGS:

To be announced.

### BOARD OF EXAMINERS IN VETERINARY MEDICINE

*Executive Officer: Gary K. Hill*  
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Pursuant to Business and Professions Code section 4800 *et seq.*, the Board of Examiners in Veterinary Medicine (BEVM) licenses all veterinarians, veterinary hospitals, animal health facilities, and animal health technicians (AHTs). The Board evaluates applicants for veterinary licenses through three written examinations: the National Board Examination, the Clinical Competency Test, and the California State Board Examination.

The Board determines through its regulatory power the degree of discretion that veterinarians, AHTs, and unregistered assistants have in administering animal health care. BEVM's regulations are codified in Division 20, Title 16 of the California Code of Regulations (CCR). All veterinary medical, surgical, and dental facilities must be registered with the Board and must conform to minimum standards. These facilities may be inspected at any time, and their registration is subject to revocation or suspension if, following a proper hearing, a facility is deemed to have fallen short of these standards.

The Board is comprised of six members, including two public members. The Board has eleven committees which focus on the following BEVM functions: continuing education, citations and fines, inspection program, legend drugs, minimum standards, examinations, administration, enforcement review, peer re-

view, public relations, and legislation. The Board's Animal Health Technician Examining Committee (AHTEC) consists of the following political appointees: three licensed veterinarians, three AHTs, and two public members.

### MAJOR PROJECTS:

#### *BEVM's Complaint Review System.*

Last summer, the Board agreed to implement a new complaint review system for a six-month trial period. Under the new system, Board-hired consultants, in conjunction with a committee of Sacramento veterinarians, act as "gatekeepers" and review 95% of all complaints received; the Board's regional complaint review committees are used only in extreme cases. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 115; Vol. 11, No. 3 (Summer 1991) p. 111; and Vol. 11, No. 2 (Spring 1991) pp. 107-08 for background information.) At its October 3-4 meeting, the Board announced its award of new consulting contracts to veterinarians Tom Condon and Steve Wagner. The Board was expected to decide whether to permanently adopt the new complaint review system at its January meeting.

At its November meeting, the Board reviewed its present complaint disclosure policy, which prohibits Board staff from disclosing information about complaints filed against veterinarians to an inquiring member of the public until a formal accusation is filed by the Attorney General. The Board discussed the possibility of amending its policy to allow public disclosure of complaint information prior to the filing of an accusation; however, many members expressed a desire to retain the present policy to prevent disclosure of information regarding complaints later found to be meritless. The Board was scheduled to continue discussion of its complaint disclosure policy at its January meeting.

#### *Proposed Legislation and Rulemaking to Increase Fees.*

At its July and October meetings, the Board discussed its need to raise the statutory ceiling of BEVM's licensing fees. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 115 for background information.) In light of a budget report prepared by budget analyst Phil Coyle, the Board agreed at its November meeting to seek a legislative amendment to raise BEVM's licensing and examination fee ceilings, and regulatory amendments to raise premise and practical examination fees. The Board unanimously moved to pursue amendments to section 2070, Title 16 of the CCR, to increase premise permit fees from \$30 to \$50 and practical examina-